# Denunciation of a Failed Family Protection System

## The Austrian Case

**Abstract**

This document analyzes the Austrian legal framework and its practical application in the field of family protection.
Drawing on a documented case, it shows how a system originally designed to prevent domestic violence ends up systematically violating fundamental rights, creating new victims, and amplifying existing imbalances.

The investigation combines the reconstruction of concrete proceedings with the examination of official data, legislative references, and international reports (GREVIO, Council of Europe, UN Convention on the Rights of the Child). It demonstrates that:

- provisional measures, in practice, take on a permanent character,
- appeals do not provide a genuine review on the merits, but only a formal check,
- children are not treated as subjects of rights, but as instruments of procedural strategies,
- the Istanbul Convention, in its implementation, becomes a mechanism of structural discrimination.

The central finding is that the Austrian model converts a legitimate goal — protection against violence — into a system of institutional abuse.
The evidence collected here shows how current practice not only destroys individual destinies but also represents a permanent threat to the rule of law and to human rights.

**Preface**

This document arises from the direct observation of a concrete case that took place in Austria between 2024 and 2025, documented through official records, administrative measures, and judicial decisions.
It is not a personal opinion without evidence, but a verifiable reconstruction, based on documentary sources and legal references.

The aim is to highlight how, even within a democratic system and a state governed by the rule of law, the family protection framework can produce irreversible effects on fundamental rights, in the absence of preventive safeguards and with remedies that are ineffective in substance.

The case analyzed shows that a single administrative act — issued by a police officer, without prior hearing and without adversarial proceedings — can immediately result in:

- exclusion from one's own home,
- total interruption of contact with one's children,
- compromise of personal and professional reputation.

These measures, conceived as temporary and urgent, in practice turn into prolonged restrictions, maintained until the conclusion of separation or divorce proceedings, even in the absence of material evidence and without reassessments of proportionality.

The following analysis does not aim to accuse institutions in general, but to document a systemic malfunction, illustrating step by step:

1. the cultural and legal framework that makes it possible;
2. the operational mechanisms that transform a preventive measure into a de facto sanction;
3. the absence of effective rebalancing tools;
4. the consequences for human rights and the well-being of children.

The approach adopted is descriptive and documentary, with constant reference to official data, laws, and institutional reports, to ensure that the content is not only direct testimony but also reasoned evidence of a structural defect.

## Chapter 1 – The Fertile Ground: The Song of the Sirens

In recent decades, the family bond has been progressively eroded by cultural, social, and economic factors. This is not a sudden collapse, but a slow and constant transformation that has redefined the perception of partnership and parenthood.

In this context, the legal and administrative system, instead of encouraging the preservation of family unity and the balanced management of conflicts, has often created mechanisms that foster disintegration. Immediate and radical interventions—such as the forced removal of a parent—are presented as protective measures, but they produce irreversible effects on the family unit and on fundamental rights.

The "sirens" referred to here are not a poetic image: they are the cultural models and institutional messages that push towards replacing mutual sacrifice with the consumption of relationships. This creates fertile ground for the adoption of preventive separation measures, increasingly frequent and applied even in the absence of concrete evidence of danger.

Behaviors once interpreted as care and dedication—taking responsibility, offering help, requesting reciprocity—are today sometimes reinterpreted as forms of control or potential abuse. Within this framework, the man who plays an active role in the family risks being quickly perceived as a danger, even in the absence of concrete facts.

The result is that suspicion becomes the starting condition, and cohabitation is treated as a risk to be managed, not as a value to be preserved. This leads to an increasingly broad application of administrative and judicial measures that dismantle the family unit, presenting it as social progress, while in reality it produces disintegration, parental alienation, and the loss of fundamental rights.

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📌 **Technical Note – Chapter 1**
**Theme:** Weakening of the family bond and promotion of disintegration.

- **Sociocultural context:**
    - According to Eurostat and OECD, divorce and separation rates in Europe have been rising since the 1980s, with a marked increase in Austria and Germany between 2010 and 2020.
    - Studies in family sociology (University of Vienna, European Social Survey) highlight an increase in the importance attributed to individual self-realization over long-term family commitments.
- **Legal framework:**
    - In Austria, the law allows for administrative removal measures even in the absence of active criminal proceedings.
    - The Istanbul Convention (ratified by Austria) encourages rapid and preventive interventions, which in practice create an implicit incentive for immediate separation as a form of "risk management."
- **Documented consequences:**

- The GREVIO 2022 report shows that precautionary removal tends to become a de facto permanent measure, even in the absence of evidence of current danger.
- Collateral effects: polarization of parental roles, increase in parental alienation, and intensification of litigation.

📌 **About GREVIO**
The *Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO)* is the independent monitoring body established by the Council of Europe to oversee the implementation of the Istanbul Convention by member states.
Its mandate includes:

- evaluating national laws and policies on the prevention and fight against domestic violence;
- collecting data, best practices, and critical issues;
- issuing recommendations to states.

Although it has a consultative and monitoring role, its observations are used as references in legislative reforms and in shaping practical applications.

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**Chapter 2 – The First Gear**

In Austria, domestic violence protection laws allow the police to issue an immediate eviction order from the family home for an initial duration of 14 days, based on a generic accusation of violence, without any obligation to hear the person subject to the measure.

In practice, this means that a police officer, on the basis of a report or statement, can adopt an administrative measure that immediately and unilaterally suspends fundamental rights, such as:

- the right to remain in one's home,
- the right to contact with one's children,
- the right to possess and use personal belongings in the home.

If the person claiming to be a victim requests it, the measure can be automatically extended for another 14 days by a judge, without any new investigation. In practice, especially in the context of separation or family conflict, this measure often persists until the conclusion of civil proceedings (such as divorce), crystallizing an imbalance between the parties.

This scheme is applied almost automatically, without any preliminary assessment of less invasive alternatives. In many cases, the initial situation could be addressed through family mediation, assisted negotiation, or gradual protective measures, which could safeguard vulnerable individuals without instantly destroying family life. However, current practice almost entirely excludes this possibility: suspicion leads directly to eviction, and eviction quickly becomes the status quo, even when there is no material evidence of imminent danger.

The statements of the alleged victim, even in the absence of objective evidence, take on decisive value in the decision, while the position of the removed person is not assessed in an adversarial

process at the initial stage. Thus, a measure conceived as temporary becomes a prolonged restriction, irreversibly affecting parental roles and the daily life of the person targeted.

One might be tempted to say that the need for protection prevails over other considerations. But reality is very different. When the removed person raises potential and documented risks for the children, protection no longer applies. Potential crimes, such as child neglect, are reclassified as administrative issues to be relegated to social workers.

This asymmetry reveals that protection is not a neutral principle, but a selective instrument. The removed man becomes irrelevant even when he reports risks for the children: his words are reduced to a personal conflict, not a real danger. From that point onward, every subsequent step of the procedure only amplifies the initial imbalance.

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📌 **Technical Note – Chapter 2**
**Theme:** Immediate eviction order and automatic extension.

- **Legal references:**
  - §38a *Sicherheitspolizeigesetz (SPG)* – allows the police to issue a *Wegweisung* (eviction order) for 14 days in cases of suspected domestic violence.
  - §382b *Exekutionsordnung (EO)* – automatic 14-day extension if the reporting party submits a request to the court.
- **Procedural characteristics:**
  - Decision based primarily on the statement of the reporting party.
  - No preliminary hearing of the person subject to the measure.
  - No independent verification at the extension stage.
- **Practical effects:**
  - Exclusion from home and children for almost a month without any substantive hearing.
  - Immediate procedural advantage for the requesting party: exclusive access to the home, de facto custody of the children, control of the domestic situation.
- **Critical issues reported:**
  - High risk of instrumental use in family conflict contexts.
  - Lack of proportionality: the same procedure applied both in cases without evidence and in cases with proven danger.
  - GREVIO reports on possible violations of the principles of adversarial proceedings and proportionality.

**Chapter 3 – From Temporary to Permanent**

After about three weeks from the adoption of the police order — and following the automatic extension of an additional 14 days upon request by the alleged victim — the judge intervenes.

At this point, the family conflict is no longer a crisis to be managed, but has already been transformed into a context of presumed danger. The initial order, adopted without hearing and without adversarial process, has created a structural imbalance that becomes the premise for all subsequent decisions.

The court hearing does not take place in a neutral phase of verification, but at a moment when:

- the physical separation has already occurred,
- the children are already placed with one parent only,
- the parental relationship has already been interrupted,
- the narrative of danger has already been consolidated.

The judge thus finds themselves ratifying a factual reality rather than assessing it anew. Material evidence, if absent at the outset, is rarely sought at this stage. The statements of the requesting party remain decisive and credible by definition, while those of the removed party struggle to find space.

This approach effectively eliminates any possibility of resorting to reconciliation tools — such as mediation or family counselling — which could, at an early stage, preserve the family unit and reduce harm. Once the system has "classified" the case as a risk, the only management provided is containment: extension of the measure, contact restrictions, and maintenance of the arrangement until the conclusion of separation or divorce proceedings.

In the case analyzed, the measure was applied in its most severe form:

- exclusion from the family home,
- total interruption of contact with the children,
- prohibition of access to school premises.

This raises an inevitable question: what room for intervention remains in truly dangerous cases, if even in cases without material evidence the maximum duration and scope of the measure are applied?

Finally, in many cases, the judge's decision to maintain or extend the measure is not based on new or objective evidence, but on subjective statements by the requesting party, often referring to a "perceived danger" rather than a documented and current risk. This approach shifts the decision-making criterion from the level of objective verification to that of individual perception, with the consequence of making the extension of the measure almost inevitable, regardless of the evidence of facts.

In practice, such extensions have no fixed deadline: the duration becomes de facto *sine die*, subordinated to the conclusion of parallel civil or criminal proceedings, such as separation or divorce. In this way, a measure conceived as temporary turns into a permanent restriction, without periodic review of proportionality or current risk.

And even if the restrictive measures concerning the children were not extended, the regulated visitation system would nevertheless remain in force. This amounts to a genuine legal absurdity: a

visitation system necessary only in the presence of a restrictive order, which remains in effect even after the expiry of the precautionary measure.

In other words, it is not enough for the precautionary measure to reach its natural expiry: the father's natural rights are never restored.

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📌 **Technical Sheet – Chapter 3**
**Theme:** The role of the judge in ratifying police measures.

- **Legal references:**
  - §38a *Sicherheitspolizeigesetz* (SPG) and §382b *Exekutionsordnung* (EO).
  - First court hearing usually after 3–4 weeks from the adoption of the measure.
- **Reported issues:**
  - GREVIO and the Austrian Ombudsman: tendency to ratify the factual situation rather than reassess it *ex novo*.
  - Lack of objective criteria to assess present and concrete danger.
  - Maintenance of the measure for the entire duration of civil proceedings, regardless of the initial gravity.
- **Role of children:**
  - Often not heard directly.
  - Treated as a "party to be protected" automatically, without independent verification of their actual best interests (potential violation of Art. 12 of the UN Convention on the Rights of the Child).
- **Impact:**
  - Irreversible reinforcement of procedural imbalance.
  - Long-term effects on the parent–child bond and on family stability.

**Chapter 4 – Sham Appeals**

In Austria, the law formally provides the possibility to appeal against removal measures.
In practice, however, this right is severely limited:

- the appeal is based exclusively on the documents already acquired in the initial phase,
- it is not permitted to introduce new evidence or request a full investigation,
- the appellate judge reviews the same file that already led to the measure, without altering the evidentiary framework.

The result is that the appeal becomes a procedural confirmation of the initial decision, not an effective review.

When the removal also concerns children, there is no procedural obligation to hear them during the appeal, despite Article 12 of the UN Convention on the Rights of the Child establishing that minors have the right to be heard in all proceedings affecting them.

The principle of proportionality — according to which the measure must be calibrated to the seriousness of the facts and the persistence of the risk — remains purely theoretical. Even in the absence of material evidence, the most severe measure can remain in force until the conclusion of civil proceedings, maintaining:

- exclusion from the home,
- interruption of the relationship with the children,
- prohibition of access to places and environments connected to family life.

The European Court of Human Rights (ECHR) is often presented as the last hope for those who have suffered unjust decisions. In practice, it is a procedural illusion: most appeals are declared inadmissible for formal reasons, in particular for the alleged failure to "exhaust domestic remedies." This occurs even when, under national legislation, no further effective remedies are available.

The effect is devastating: the ECHR ends up ratifying, through procedural silence, decisions that have violated fundamental rights. Instead of correcting distortions in the domestic system, it becomes a passive accomplice, reinforcing the sense of abandonment and the complete absence of justice.

A short circuit that produces only one effect: no remedy for the original decision of the police officer.

Thus, civil rights can be trampled with impunity, provided they are trampled by a State with "good democratic traditions" and not on the Court's political agenda.

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📌 **Technical Sheet – Chapter 4**
**Theme:** Ineffective appeals

- **Legal references:**
  - Austrian Code of Civil Procedure – appeal based on the existing file.
  - §382b *Exekutionsordnung* (EO) – no reassessment with new evidence.
  - UN Convention on the Rights of the Child, Art. 12 – right of the child to be heard.
- **Reported issues:**
  - Absence of effective adversarial process: appeal does not allow new evidence or witnesses.
  - Lack of hearing of minors: their voices remain excluded even on appeal.
  - Proportionality ignored: maximum measures applied even without concrete evidence.
  - Ineffectiveness of access to the ECHR: frequent declarations of inadmissibility for formal reasons.

- **Practical impact:**
    - Crystallization of imbalance between the parties.
    - Prolongation of burdensome restrictions without independent verification of their necessity.

## Chapter 5 – The European Protocol

The situation described in the previous chapters is not an anomaly confined to Austria.
Similar measures, with almost identical procedural dynamics, are applied in Italy, Germany, France, Belgium, and in much of the Council of Europe member states.

The point of convergence is the Istanbul Convention (Council of Europe Convention on preventing and combating violence against women and domestic violence, 2011), ratified by Austria on 14 November 2013 and entered into force on 1 August 2014.

The Convention requires states to adopt preventive and protective measures promptly, even without a formal complaint, whenever there is a suspicion of domestic violence.
The declared objective is noble: to protect the vulnerable party and prevent imminent risks.

However, its practical implementation has generated a uniform model with two structural flaws:

1. **Generalization of removal as the standard measure**: in cases of suspicion, even unverified, restrictive orders are applied as the first step, not as an *extrema ratio*.
2. **Prolongation of measures until the end of civil or criminal proceedings**, even when the initial urgency has ceased or was never demonstrated.

According to the 2022 GREVIO Report on Austria, this approach translates into:

- little room for individualized assessments,
- a tendency to automatically privilege the version provided by the reporting party,
- lack of thorough investigations in the initial phase.

Since the Istanbul Convention has been implemented in a similar way in many countries, the same procedural automatisms are replicated across Europe, resulting in multiple cases of disproportionate restriction of fundamental rights.

Among the instruments designed to address family crises involving children, states adhering to the Istanbul Convention have established child assistance services.
In the Austrian context, institutions such as *Kinder- und Jugendhilfe* (KJH) and *Kinder- und Jugendanwaltschaft* (KIJA) constantly invoke this framework.
But in practice, a profound distortion emerges:

- **Instruments bent to ideology**
  Instead of ensuring balanced protection, KJH and KIJA apply the Convention's principles selectively, transforming it into an ideological tool.
  The mother is automatically protected as a presumed victim, while the father is treated as a potential perpetrator of violence, regardless of the actual facts.

- **Children forgotten**
  The Convention explicitly recalls the right of children to be protected.
  Yet neither KJH nor KIJA provided protection when the children were left alone at home for hours, nor when they were deprived of their relationship with their father.
  The use of the Convention has been reduced to an alibi to justify restrictions, without any balancing of the best interests of the child.

- **The absurd practice of KIJA**
  KIJA intervenes only upon direct request from children: an approach that ignores the obvious impossibility, for a child under the mother's influence, to independently contact a public office.
  Thus, an organ created to promote children's rights turns into a sterile entity, devoid of real protective capacity.

**Conclusion**
Referring to the Istanbul Convention should mean genuinely protecting victims and guaranteeing the best interests of children.
In this concrete case, however, the Convention has been used as a framework to consolidate imbalances and discrimination:

- the mother always the victim,
- the father always guilty,
- the children reduced to instruments of conflict, never subjects of protection.

Thus, a convention born to combat violence paradoxically becomes a legal aberration: used to legitimize new forms of injustice and to deny the very rights it was supposed to defend.

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📌 **Technical Sheet – Chapter 5**
**References: From protection to automatism**

- Istanbul Convention, Articles 50–53: obligation of immediate protective measures, including restrictive and removal orders.
- Implementation in Austria: §38a *Sicherheitspolizeigesetz* (SPG) and §382b *Exekutionsordnung* (EO).

**Critical issues identified by GREVIO (2022 Report):**

- Extensive use of precautionary measures as default in cases of suspicion.
- Lack of clear criteria to assess imminent danger.
- Procedural asymmetry in favor of the reporting party.

**Transnational impact:**

- Replication of automatisms in multiple member states.
- Erosion of the principle of proportionality and of the right to adversarial proceedings.
- Creation of an "implicit protocol" that transforms an emergency measure into a permanent instrument of rebalancing between the parties, often in favor of one side only.

## Chapter 6 – Protection That Does Not Protect

A system may carry risks of violating fundamental rights, but it can be tolerated if, in exchange, it tangibly reduces domestic violence and genuinely protects vulnerable people.

In the Austrian case, available data show that this trade-off does not occur: domestic violence is not decreasing, removal measures do not guarantee lasting protection, and collateral damage — especially to children and non-abusive parents — remains ignored.

Instead of correcting imbalances, the institutional response is to reinforce existing procedures, further locking down the system and reducing the space for review. This approach turns a problem of risk management into a permanent structural risk, where the initial error can no longer be corrected.

The result is paradoxical:

- genuinely serious cases may be confused with those where the danger is unproven;
- the promised protection is not guaranteed, but the suspension of rights remains effective and often irreversible;
- the impact on children, both psychological and relational, is not subject to systematic monitoring.

That the system is not genuinely interested in protecting the most vulnerable parties is shown by the different way in which danger reports are handled.

If a woman declares that she feels threatened, she immediately obtains protection and the suspension of all the man's fundamental rights.
But if it is the man who reports concrete risks for the children, due to the mother's lack of custody, everything is downgraded to an administrative issue.

The complaint is passed on to the *Kinder- und Jugendhilfe* (KJH) which, with the cooperation of the mother, manages to transform a serious problem into a mere communication defect between children and father.

In this way the system intervenes efficiently, but not to protect the children: it acts to defend those who ignore the elementary principles of good motherhood — bordering on the crime of child neglect — and always at the expense of the children themselves.

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### 📍 Technical Sheet – Chapter 6
### Statistics on gender-based violence

| Aspect | Data & Sources |
|---|---|
| **Prevalence of violence** | About 23.5% of Austrian women (18–74 years old) have experienced physical violence in their lifetime; including sexual violence, the percentage rises to 34.5% (*bmfwf.gv.at*; Gewaltschutzzentren Österreichs; STATISTIK AUSTRIA). |
| **Intimate partner violence** | Domestic violence affects a significant share of the female population, even in advanced democratic contexts. |

| Aspect | Data & Sources |
|---|---|
| **Femicides** | In 2022, 29 women (including one minor) were killed in Austria, mostly by partners or family members (Wikipedia; Kriminalstatistik). |
| **Underreporting** | Only 16% of victims of physical violence report the incident, compared to an EU average of 30% (Evelyn Regner; European Union Agency for Fundamental Rights). |
| **Institutional assessments** | GREVIO acknowledged legislative progress but pointed out shortcomings in considering children as central subjects and in ensuring protection measures that involve both non-abusive parents (GREVIO Report Austria, 2022). |
| **Missing structural data** | Lack of systematic collection of disaggregated data by gender, relationship, and family status, making it impossible to evaluate the effectiveness of measures and their effects on children (*rm.coe.int*). |

## Chapter 7 – Ideology and Lobbying

The family protection system, as it is currently structured, is not neutral.
It is fueled by a cultural framework that, over the last decades, has radically altered the perception of family conflict and the paternal figure:

- suspicion becomes preventive truth,
- accusation equals condemnation,
- the fragility of one party is automatically translated into danger for the other.

This semantic and cultural shift has redefined fundamental concepts:

- care is interpreted as control,
- dedication as domination,
- the demand for responsibility as oppression.

The result is a systemic bias in which the father is, by default, the potential offender. The burden of proving one's innocence is so high as to be, in many cases, unattainable. Those who oppose this narrative quickly find themselves marginalized and silenced.

"The asymmetry does not end with procedure but is rooted in a cultural background that grants full legitimacy only to the voice of the woman who accuses. When the father raises concrete risks or reports cases of child neglect, his account is immediately reclassified as a defensive strategy, and therefore discredited. This cultural selection of voices feeds the institutional mechanism: one side receives attention, support, and automatic credibility, while the other is condemned to preventive silence. It is a model that does not protect children but renders them invisible if the danger comes from the 'wrong' figure."

### The Role of Women's Associations

Reinforcing this ideological architecture is the operational contribution of certain NGOs and women's associations, originally created to support women victims of violence, but which have now become de facto actors in family and criminal proceedings.

These organizations:

- provide legal and psychological counseling to the claimant,
- intervene as mediators or privileged interlocutors with authorities,
- in some cases, are considered qualified sources for risk assessments, without any independent verification of their impartiality.

**Concrete Case and Possible Interference**

In the specific case analyzed here:

- some of these associations were informed of the judge's decisions, despite not being formal parties to the proceedings;
- there are grounds to believe that they may have influenced the evaluation of supervised visits between the removed parent and the children, thereby conditioning access to a regular and balanced relationship with them.

A criminal complaint was filed for suspected violation of Article 288 of the Penal Code. The prosecution did not respond. Neither was an investigation opened nor was the case dismissed, effectively preventing any further action.

**A Structural Link**

According to GREVIO's observations, in Austria there exists a systemic link between the state protection mechanism and sector NGOs. This relationship entails:

- a procedural asymmetry favoring the claimant, who benefits from coordinated legal, psychological, and institutional support;
- the absence of equivalent instruments for the accused party, exacerbating the imbalance already created by procedural rules.

📍 **Main Critical Issues**

1. Risk of conflict of interest: those supporting one party also become evaluators of risk.
2. Indirect influence on judicial decisions: through informal reports or privileged communications.
3. Lack of procedural parity: the accused party remains without equivalent resources to defend themselves.

## Chapter 8 – Children and Their Best Interests

Every measure adopted in family conflicts is justified with the formula of the "best interests of the child."
But behind this solemn expression, in the concrete case, there was no actual protection of the children.

The minors were used as a pretext, but never heard as rights-holders in their own right.

- They were not directly questioned by judges.
- Their statements were filtered and conditioned by the mother.
- The father's reports, even when concerning real risks, were ignored.

The result is paradoxical: the very instruments created to protect children contributed to making them invisible.

Deprived of the right to both parents, left alone when protection was most needed, reduced to instruments in a conflict, the children became the silent victims of a system that proclaims protection but practices abandonment.

In every modern legal system, and in particular under the UN Convention on the Rights of the Child (Articles 3 and 12), the best interests of the child should be the guiding principle of every decision.

The child has the right not only to be protected, but also to be heard in all proceedings that concern them.

In the Austrian practice described in this case, these principles were systematically violated:

- **Lack of hearing or manipulated hearing**
  The children were not directly heard by judges. Their voice was filtered by the mother, turned into instrumental statements. In some cases, the children's claims were taken as decisive for restricting contact with the father, without any verification of their spontaneity or authenticity.
- **Right to family bonds denied**
  Two of the three children lived under an absolute ban on communication with their father. The eldest, who would have had freedom of choice, was subjected to such pressure that he cut off the relationship.
  The child's interest was not to maintain stable emotional ties with both parents, but — ideologically — to confirm the scheme of mother as victim / father as guilty.
- **Selective protection**
  When the father reported concrete situations of danger — such as the children being left alone in the evening — the report was downgraded to an administrative matter. No investigation, no protective measure.
  By contrast, when the mother declared she felt threatened, the entire repressive apparatus was immediately activated, with the father's removal and the most severe restrictions.
- **Children as instruments of conflict**
  Instead of being considered subjects with rights, the children were used as tools:
    - tools in the hands of the mother, who was able to control their voice and relationship with the father;
    - tools in the hands of institutions, which used their supposed protection as a justification for disproportionate measures.

**Conclusion**

The result is that the children were not protected, but forgotten.
Their best interests remained a slogan, used to justify decisions already made.

In reality:

- they were not heard,
- they were not protected,
- they were denied the right to both parents,
- they were left alone precisely when it was most dangerous to be so.

Thus, the system that proclaims to protect children has made them the invisible victims of conflict, sacrificed on the altar of an ideology that defends predefined roles, not their real needs.

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📌 **Technical Sheet – Chapter 8**
**Theme:** Children as subjects of rights and the ignored best interests principle.

- **Normative and international references**
  - UN Convention on the Rights of the Child (1989):
    - Art. 3 – In all decisions concerning children, the best interests of the child must be a primary consideration.
    - Art. 12 – A child capable of forming views has the right to be heard in all proceedings affecting them, directly or through a representative.
  - Istanbul Convention (2011, ratified by Austria in 2013): provides protection for children exposed to domestic violence, but does not specifically regulate the right to shared parenting.
  - Austrian Civil Code (ABGB):
    - § 137 (Kindschaftsrecht): guarantees the child's right to maintain regular personal contact with both parents.
    - § 138: obliges parents to promote relations with the other parent, unless there is a serious risk to the child.
- **Critical issues identified**
  - Lack of direct hearing of minors in judicial proceedings, contrary to Art. 12 CRC.
  - Distorted use of children's statements, filtered by the mother, without verifying spontaneity.
  - Denial of the right to shared parenting: two children deprived of contact with the father and a third pressured to end the relationship.
  - Selective protection: risks reported by the father (child neglect) downgraded to administrative issues; risks reported by the mother (even merely perceived) escalated to extreme measures.
- **Monitoring sources and data**

    - GREVIO Report Austria 2022: acknowledges legislative progress, but notes insufficient attention to children as autonomous subjects and to the impact of protective measures on their right to maintain relationships with both parents.
    - Austrian Ombudsman for Children's Rights: has long stressed the need for independent evaluations of the child's best interests in separation and divorce proceedings.
    - European Union Agency for Fundamental Rights (FRA): highlights that in several EU countries children are not regularly heard in family proceedings, despite legal requirements.
- **Practical impact**
    - Children remain unheard subjects, even when the law requires otherwise.
    - The "best interests" principle becomes a slogan, used to legitimize pre-decided outcomes without individualized analysis.
    - Children risk growing up without balanced parental references, internalizing a model of justice that fails to recognize truth or their real needs.

## Chapter 9 – The Ignored Word: Archiving Pain

Silence was not our choice.
We spoke, we wrote, we denounced.
Letters, appeals, testimonies, articles, books.
Everything was ignored or archived. Not because facts were lacking, but because acknowledging them would have undermined the official narrative: that of a system that always acts to protect and never to harm.

Any word that does not serve to confirm this version is rendered irrelevant.

### Statistical invisibility as a tool of erasure

In Austria — as in most EU countries — there are no public databases that specifically record cases of separated or removed fathers who died by suicide or fell into alcohol and drug abuse as a result of family proceedings.

Official data on suicides and substance use are collected, but not cross-referenced with family or judicial information. This methodological omission makes the phenomenon institutionally invisible.

### Indirect evidence

- **Australia (ABS, 2018):** the male suicide rate is up to three times higher among divorced men compared to married men.
- **USA (National Center for Men's Health, 2017):** loss of contact with children is one of the main risk factors for alcohol and drug abuse among middle-aged men.
- **UK (Male Suicide Report, 2020):** a significant proportion of male suicides is linked to the perception of irreversible loss of the parental role.

Although these data do not refer exclusively to Austria, they indicate a clear and repeated trend across Western countries.

**Lack of political will**

The Council of Europe and GREVIO recommend collecting disaggregated data in cases of domestic violence, but there is no obligation to monitor the side effects of protective measures, such as the increase in suicides or addictions among removed parents.

This gap prevents:

- a real measurement of the impact of these measures;
- the development of targeted prevention and support policies;
- the inclusion of these victims in public debate.

**Implications**

Without data, the problem does not exist for the State.
Those who die or self-destruct are not considered the product of a failed system, but "isolated cases."

This invisibility fuels a one-sided narrative, in which the consequences for fathers — and therefore for children — are never acknowledged or counted.

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**Conclusion – What Remains**

In a State that proclaims itself to be based on the rule of law, but where a single administrative act can deprive a person of their home, children, and reputation without real due process, the promise of justice is revealed as a fiction.

What remains is a bitter reality:

- there is no justice, because minimum guarantees are suspended when suspicion replaces proof;
- there is no listening, because the voice of the accused and that of the children do not carry the same weight as the accuser's;
- there is no redress, because no procedure restores what has been taken away.

The result is a system that:

- decides without knowing,
- condemns without proving,
- destroys without looking back.

What remains is the man branded as dangerous, even when no danger ever existed.
What remains is the father excluded from his children, even when his only "crime" was being part of a family conflict.
What remains is the irreversible fracture between proclaimed rights and lived rights.

Those who survive, do so by chance.
Those who fall, disappear without leaving a trace, without the system ever asking why.

Writing this document will not change judgments nor restore lost days.
It serves only one purpose: to prevent even the truth from being erased.